Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Billed Party Preference	)	CC Docket No. 92-77
for 0+ InterLATA Calls	)	

Comments of The Southern New England Telephone Company

The Southern New England Telephone Company (SNET), pursuant to the Further Notice of Proposed Rulemaking (Further Notice)[1] of the Federal Communications Commission (Commission), hereby files its comments regarding the costs, benefits and implementation of Billed Party Preference (BPP).

I. INTRODUCTION AND SUMMARY

Although SNET cautiously supported BPP in its first comments in this proceeding,[2] SNET now asks the Commission not to mandate BPP, because the diminishing public interest benefits no longer outweigh the high costs of implementation and operation.

The objectives to stimulate consumer-oriented competition, and to produce lower prices and better services,[3] are in the public interest. However, SNET believes

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[1] In the Matter of Billed Party Preference for 0+ InterLATA Calls, CC Docket No. 92-77, Further Notice of Proposed Rulemaking, FCC 94-117, released June 6, 1994.

[2] SNET Comments, July 7, 1992, pgs. 1, 10. SNET also recommended universal deployment by all local exchange carriers (LECs), as well as implementation for all 0-, as well as 0+, interLATA calling. SNET Comments, pgs. 7-8.

[3] Further Notice, para. 2.

that the natural evolution of the operator services providers (OSPs) marketplace, and the Commission's enforcement of its own rules, have already accomplished a major portion of these goals. Flourishing competition between OSPs has given consumers more choices regarding the carriage and billing of 0+ and 0- calls. Callers have been learning to access their chosen OSP by increasing the use of 10XXX access codes and other "dial-around" capabilities.

Although some end users might receive the benefits of BPP (if BPP were implemented for all interLATA and intraLATA intrastate 0+ and 0- calls simultaneously for all local exchange carriers), SNET submits that the high costs of implementation and operation outweigh those benefits. SNET further states that BPP would not be a viable investment for the future because scarce LEC resources would be diverted from providing more economically efficient services that would meet wider market needs. Should the Commission nevertheless mandate BPP, SNET urges the Commission to provide LECs with adequate interstate and intrastate cost recovery, with costs spread across all operator service calls.

SNET agrees with Mr. Robert P. Bigelow: "Let's just keep things the way they are."[4]

II. BACKGROUND

The Commission is proposing BPP as a way to "facilitate access to the telephone network by eliminating the need for callers to use access codes on [interLATA 0+] operator service calls."[5] In actuality, however, BPP would be an expensive mechanism designed to minimize a perceived advantage of AT&T in the OSP marketplace. This advantage is an apparent outgrowth of the 1988 Consent Decree implementing a system of payphone presubscription,[6] and AT&T's introduction

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[4] Robert P. Bigelow, Letter to the Federal Communications Commission, "re: CC Docket 92-77, FCC 94-117, 59 Fed. Reg. 30754," filed June 22, 1994.

[5] Further Notice, para. 2.

[6] Further Notice, fn. 2.

of a proprietary calling card, on which it pays commissions on 0+ calls. The Commission asserts that BPP would eliminate AT&T's advantages,[7] and would provide other benefits such as enhancement of the communications infrastructure, introduction of new services, reduction of regulatory costs including complaints, and reduced consumer confusion.[8]

While fully achieving these benefits would be worthwhile, SNET states that they are already being attained as a product of robust competition, the development of advanced technologies, the expansion of consumer demand for information superhighway services and features, and growing consumer education and awareness. BPP is not critical to the growth of consumer-oriented technologies.

Many changes are continuing to occur in the interstate and the local exchange telecommunications marketplace. Competition is becoming even more vigorous among the many interLATA toll and operator services providers. Competition at the local level is erupting at a pace faster than could have been predicted two years ago.[9] "These changes, important as they are, are only the prelude."[10] Regulators should encourage LECs to respond to these challenges, rather than hobble them with large mandated investments such as BPP to serve a small -- and diminishing -- number of consumers. The promotion of competition at any cost is not in the public interest.

SNET urges the Commission to conclude that the need for BPP simply has passed, and that the public interest would no longer be served by mandating BPP.

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[7] Further Notice, para. 15.

[8] Further Notice, paras. 12, 16, 17.

[9] "Local exchange carriers now face real competition for their core lines of business.... LECs face competition from a variety of sources, [and] each competitor has successfully made inroads into core areas of profitability for LECs, specifically high-volume low-cost business and residential customers. Many of these competitors are growing rapidly, suggesting that an analysis of their current competitive impact may substantially understate their future competitive impact." R. G. Harris, Competition in Access and Exchange Services, Appendix B to Comments of The United States Telephone Association, CC Docket No. 94-1, Price Cap Performance Review for Local Exchange Carriers, May 9, 1994, at pgs. B-1, B-3.

[10] In the Matter of Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Notice of Proposed Rulemaking, FCC 94-10, released February 16, 1994 (Price Cap Reform NPRM), para. 3.

III. THE PUBLIC INTEREST BENEFITS OF BPP ARE DIMINISHING.

A. Consumers Are Increasing Their Selection Of Their Preferred OSP.

Consumers are already selecting their preferred carrier in a very high percentage of operator service calls. The Commission itself has found that "well over 90 percent of telephones comply with the most important TOCSIA requirements."[11] Consumers are able to exercise their options in placing operator services calls from the vast majority of telephones in the country.[12]

In a limited study of pay phone calling in early 1994, SNET found that of 203,400 calls, approximately 115,000 (or 57%) were coin sent paid local and toll calls (state and interstate). Of the remaining 88,400 non-sent paid calls (credit card, bill to third, collect, 1-800, 10XXX, etc.), approximately 52% were completed using 10XXX and other "dial-around" access codes.[13] SNET believes that this percentage of dial-around calling has been increasing slowly, although the empirical data to confirm this could not be attained in time for this proceeding. The use of dial-around services, and the expansion of other alternatives to 0+ dialing (e.g., PCS, cellular), will grow considerably in the three years it would take to implement BPP.[14]

As the Commission will not eliminate access code dialing or other dial-around capabilities,[15] by the time BPP would become operational the consumer benefits of BPP would accrue to only a very small portion of interstate callers.

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11 Final Report of the Federal Communications Commission Pursuant to the Telephone Operator Consumer Services Improvement Act of 1990, November 13, 1992 (Final TOCSIA Report), pg. 30.

12 Blocked access from a very small number of telephones is not a reason to mandate a costly BPP system; rather, the Commission should continue to enforce rigorously its existing rules to make access available from all telephones as required by law.

13 The American Public Communications Council (APCC) states that all dial-around, including 1-800 callers, is over 75% of interstate payphone calls. Ex parte of APCC, CC Docket No. 91-31, presented March 16, 1994, filed March 18, 1994.

14 See ex parte of Bell Atlantic, CC Docket No. 92-77, May 5, 1994, and ex parte of CompTel, CC Docket No. 92-77, May 9, 1994.

15 Further Notice, para. 82, rejecting USTA's request that in a BPP environment access code dialing be prohibited altogether.

B. Consumers Are No Longer Filing Complaints Regarding OSPs.

As Attachment 1 demonstrates, the number of Informal Complaints served upon SNET by the FCC regarding consumers' operator service problems has decreased to zero, and has remained at zero for the past two years. SNET's consumers are continuing to educate themselves about their options to procure operator services on interstate calls, and are not registering further complaints with the Commission.

The continued absence of Informal Complaints is very significant. It shows that no consumers have found it necessary recently to seek recourse for unfair operator services practices, or for an inability to access the chosen OSP. SNET concludes that consumers have learned to take advantage of available alternatives in placing their operator services calls. The Commission is also vigorously enforcing the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA)[16] and its resulting rules.[17]

SNET concludes that mandating Billed Party Preference would solve a problem that consumers no longer appear to have.

IV. SNET'S COST ANALYSES INDICATE THAT BPP IS VERY EXPENSIVE.

A. The Costs Of BPP Are Very Sensitive To Data That SNET Cannot Forecast Reliably.

In its 1992 Comments, SNET estimated that its first year costs to install BPP for all interLATA 0+ and 0- traffic from any telephone would be approximately $33 million.[18] SNET was unable to quantify with certainty the additional costs for: 1) deployment of SS7 capabilities; 2) diversity of traffic routing; 3) salaries and

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16 104 Stat. 986 (1990), codified at 47 U.S.C. § 226.

17 "[W]e will continue to monitor compliance and to aggressively enforce the [TOCSIA] Act and [our] rules.... [T]he Commission considers compliance with these [TOCSIA] requirements to be extremely important." Final TOCSIA Report, pgs. 12, 13.

18 SNET Comments, pgs. 2-3.

overheads for additional operators; 4) billing OSPs for BPP; 5) vendor software upgrades.[19]

Because there is no common, well-accepted definition of BPP, SNET could provision this system in several different ways. Consequently, the first costs and operating costs of BPP could cover a wide range, depending on engineering assumptions and facilities architectures.

In addition, SNET has no reliable way at this time to forecast the additional operator services traffic that it would carry under various BPP scenarios, since it is not our traffic. Nearly 75% of SNET's BPP operator system costs would be sensitive to incremental call attempts. The additional costs of the operators themselves, as well as the costs of additional SS7 capabilities in all offices are also forecast-dependent. Should BPP traffic increase to a high enough level, an additional operator service system would be needed at SNET's New Haven tandem switching center, requiring an additional investment of approximately $15 million.[20]

SNET's total first costs for facilities, operator system enhancements, right-to-use fees, end office network rearrangements and terminations, and other costs such as subscriber balloting, would exceed $33 million by a substantial margin. Annual carrying charges and operating costs, including operators, maintenance, depreciation, return, taxes, and stored program control recurring costs for per-call attempts, could range between $11 and $14 million.[21]

SNET has to conclude that the total non-recurring and recurring costs of a mandated BPP system would be very high indeed. Given the diminishing public benefit of BPP and the absence of a consumer market or service opportunity, SNET

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[19] SNET Comments, pgs. 2-4.

[20] SNET suspects that, if BPP were mandated and the LECs were to then carry OSP traffic that had been carried by smaller OSPs previously, some of these small businesses could experience greatly increased risk, including potential failure -- an outcome SNET believes the Commission does not intend.

[21] SNET recognizes the weaknesses in its cost data because the fundamental information -- such as reliable forecasts of OSP 0+ and 0- call attempts -- could not be readily derived. SNET also experienced difficulty obtaining up-to-date software cost data from switch vendors.

urges the Commission not to require the LECs to incur high, unpredictable, and -- as shall be shown below -- not fully recoverable costs.

B. Inadequate Cost Recovery Will Put LECs At Considerable Risk.

The Commission has requested comment on the issue of recovery of BPP costs.[22] The Commission correctly recognizes the conflicting cost recovery considerations, but unfortunately it offers no conclusions or recommendations.[23]

Although SNET could see some benefits to the consumer for the "simplified dialing" BPP could offer, SNET strongly reiterates here its original position that, if the Commission "mandate[s] that LECs deploy BPP, it is critical for the Commission to provide the LECs adequate cost recovery mechanisms."[24]

While SNET agrees that BPP would be a new service under the Commission's price cap plan,[25] this approach would not assure adequate recovery of costs. SNET would support the application of the BPP rate element(s) across *all* operator services calls, in order to provide the widest possible base for cost recovery. Even so, only the interstate portion of the incurred costs might be recovered. Approximately 70-75% of SNET's BPP costs would be allocated to the state jurisdiction, which of course is not covered by the Commission's price cap rule for new services . Since the Commission would probably not pre-empt the states in any mandate of BPP, adequate LEC cost recovery is far from certain.[26]

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[22] Further Notice, paras. 57-60.

[23] Further Notice, para. 59.

[24] SNET Comments, pg. 1 (emphasis added).

[25] Further Notice, para. 57.

[26] Even though the Commission has "every confidence" that BPP would be implemented "for both interstate and intrastate interLATA traffic and, in many cases, intraLATA traffic as well" (Further Notice, para. 60), this is far from a commitment for simultaneous implementation nationwide for all telephone companies. Such implementation is necessary if the objective consumer benefits and adequate LEC cost recovery are to be realized.

In order to provide the best opportunity for adequate cost recovery, SNET urges the Commission to consider the assignment of BPP costs directly to the interstate jurisdiction. While equitable cost recovery might be attained with some form of state commitment, it is quite probable that every state agency would not permit the LECs under their jurisdiction to recoup mandated federal BPP costs. SNET recommends that the Commission allow LECs without intrastate BPP cost recovery to directly assign their BPP costs to the interstate jurisdiction.

No matter what the design for cost recovery, OSPs could offer new services to circumvent BPP and its associated rates to the OSPs and their end user customers. Even if BPP rate elements applied to all operator services calls, OSPs would be motivated to expand their dial-around capabilities, further increasing BPP risks to the LECs, and thwarting the Commission's objective to simplify dialing for consumers.

As an alternative, the Commission could undertake a complete review of its accounting (Part 32), separations (Part 36), and access (Part 69) rules to accommodate BPP. But such an undertaking would be an administrative quagmire that would not yield sufficient public interest benefits to justify its cost and time.

SNET concludes that BPP cannot be mandated in a way that will produce a reasonable opportunity for LECs to recover their state and interstate costs. The impracticality of adequate cost recovery is yet enough reason why the Commission should not mandate BPP.

V. LECS SHOULD DEPLOY THEIR SCARCE RESOURCES MORE PRODUCTIVELY.

Although BPP could offer some consumers the benefits of simplified dialing and preferred billing for some operator services calls, SNET submits that BPP is not a viable investment for the future.

In this age of burgeoning competition and the attendant market and regulatory challenges to improve productivity, LECs must scrutinize rigorously their future investments in network growth and new technologies. LECs must assure that their financial commitments are sound, are designed to meet market demand, and will be recovered in a timely way. Especially given the Commission's own pro-competitive policies, LEC investments must respond to market opportunities, not regulatory mandates.

Mandating BPP would present LECs with a Hobson's choice on utilization of scarce capital. If the Commission mandates major LEC investments in BPP, especially without adequate cost recovery, scarce LEC capital would be misused, in perverse contradiction of the Commission's goal under its price cap plan, to "encourage price cap LECs to make economic decisions such as they would make in a fully competitive market."[27] LECs must make capital allocation decisions which will meet anticipated market needs, balanced with service obligations, during times when technology is advancing at a rapid pace. Mandating BPP would divert capital from providing more efficient projects which would meet wider market needs.[28]

SNET agrees with the Congress's Office of Technology Assessment:

> [R]egulators and lawmakers are, at times, so focused on establishing the appropriate rules for how the wide range of vendors and service providers should relate to one another that they often fail to consider the larger consequences that the ensuing network architecture may have for the economy as a whole.[29]

VI. CONCLUSION

SNET recommends that the Commission not mandate Billed Party Preference because the diminishing public interest benefits no longer outweigh the high costs of implementation and operation. The Commission's objectives are already being attained through market evolution and rule enforcement, and LECs should not be put at additional risk with uncertain recovery of BPP costs. As regulators continue to

27 Price Cap Reform NPRM, para. 31.

28 Some could interpret BPP as requiring the LECs to expend considerable capital so that competition could be expanded in a limited and unrelated sector of the telecommunications industry.

29 Electronic Enterprises: Looking to the Future, Office of Technology Assessment, Congress of the United States, July, 1994; pg. 47.

implement pro-competitive policies, scarce LEC capital would be better utilized to develop a more productive infrastructure and to meet market needs. The Commission can terminate this proceeding, as Billed Party Preference is no longer in the public interest.

"Let's just keep things the way they are."

Respectfully submitted,

The Southern New England Telephone Company

by: ______________________

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Attachment 1

Operator Services Informal Complaints

Served By The FCC

Upon The Southern New England Telephone Company

	1989	1990	1991	1992	1993	1994
First Quarter	15	10	3	12	-0-	-0-
Second Quarter	11	4	16	2	-0-	-0-
Third Quarter	7	9	10	-0-	-0-	-NA-
Fourth Quarter	8	3	18	-0-	-0-	-NA-
TOTAL	**41**	**26**	**47**	**14**	**-0-**	**-0-** (YTD)